IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CONVERGENT ASSETS LLC,
 	
                      Plaintiff,
 	
v.
 	
DICK'S SPORTING GOODS, INC.,
 	
                      Defendant.
	C.A. No. 4:24-cv-567
	
	JURY TRIAL DEMANDED
	
	PATENT CASE

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Convergent Assets LLC, files this Original Complaint for Patent Infringement against Dick's Sporting Goods, Inc. and would respectfully show the Court as follows:

I. THE PARTIES

1.   Plaintiff Convergent Assets LLC ("Convergent Assets" or "Plaintiff") is a Delaware limited liability company having an address at 1903 Toro Canyon Road, Austin, TX 78746.

2.   On information and belief, Defendant Dick's Sporting Goods, Inc. ("DSG" or "Defendant") is a Delaware corporation and has a regular and established place of business in Tyler, Texas at 4701 South Broadway Avenue, Tyler, TX 75703. Defendant has a registered agent at Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701.

II. JURISDICTION AND VENUE

3.   This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

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4.   On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, pursuant to due process and the Texas Long-Arm Statute, due at least to its business in this forum, including at least a portion of the infringements alleged herein at 4701 South Broadway Avenue, Tyler, TX 75703, and 3500 McCann Road, Suite K101, Longview, TX 75605.

5.   Without limitation, on information and belief, Defendant has derived revenues from its infringing acts occurring within Texas. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Texas. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products and/or services within Texas. Defendant has committed such purposeful acts and/or transactions in Texas such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

6.   Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant has a regular and established place of business in Texas and in this District at4701 South Broadway Avenue, Tyler, TX 75703, and 3500 McCann Road, Suite K101, Longview, TX 75605. On information and belief, from and within this District, Defendant has committed acts of infringement, including at least a portion of the infringements at issue in this case.

7.   For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 11,049,138)

8.   Plaintiff incorporates the above paragraphs herein by reference.

9.   On June 29, 2021, United States Patent No. 11,049,138 ("the '138 Patent") was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '138 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10.   Convergent Assets is the assignee of all right, title, and interest in the '138 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '138 Patent. Accordingly, Convergent Assets possesses the exclusive right and standing to prosecute the present action for infringement of the '138 Patent by Defendant.

11.   The '138 Patent relates to the field of systems and methods for providing content that more closely matches a targeted user's current specific interest associated with social networking activity. (Ex. A at 1:38-49; 3:23-36, 48-55; 4:16-18; 7:6-9, 12-16). The inventors recognized that the current methods of determining content for a particular user based on keywords listed on a webpage being viewed by the user failed to align the determined content with the current preferences or interests of the user. (*E.g.*, *id.* at 1:38-49; 3:23-36, 48-55). The inventors therefore invented a sophisticated and improved method of using a computer that determines content for a targeted user by using social networking activity, recency of the content, ranking based on such information, and browsing information to determine what content to retrieve and provide to the user. (*E.g.*, *id.* at 1:38-49; 4:51-57; 5:4-11; 24:17-37).

12.   **Direct Infringement.** Upon information and belief, Defendant has been directly infringing and continues to infringe claim 28 of the '138 Patent in Texas, and elsewhere in the United States. As shown below, Defendant's use and testing of its website www.dickssportinggoods.com ("Accused Instrumentality") performs the claimed method and infringes claim 28. For example, Defendant through the website, DSG performs the step of

obtaining first data indicating words in content associated with social networking activity that includes a user post on a social networking site (*e.g.*, information regarding the user's social media activity or the user's social media postings data). DSG uses this data to create advertisements tailored to user's preferences. For example, DSG gathers information indicating words, descriptive texts, or conversations associated with social networking activity, including obtaining information about user-generated content via social online marketing channels such as Facebook, Instagram, and Twitter.

> We collect several categories of information, from the different sources:
>
> A. Information You Provide: We receive information you provide to us when you: submit user-generated content (via our Sites, Internet Marketing Channels or otherwise)

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

WHAT WE COLLECT AND HOW WE GET IT

> To serve your needs, we collect various categories of information: Communications with Dick's via email, chat, phone, social media, surveys, etc. help us support you and improve our offerings.

Obtain information regarding the user's social media activity, particularly communication (i.e., words, descriptive texts, comments, or product feedback) associated with Dick's products.

(*E.g.*, https://dicks.us.com/privacy-policy/).

Personal Information Obtained from Third Parties. In some circumstances, we may collect personal information about you from third party or publicly available sources, such as our service providers, data analytics partners, third-party ticketing platforms or box offices, operating systems and platforms, social media platforms, data providers, or event promoters, producers, sponsors or performers. We may merge or combine such personal information with the personal information we collect from you directly or automatically.

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

E. Social Media Access. We engage with current and prospective customers through multiple Internet Marketing Channels and social media services (e.g., Facebook, LinkedIn and Twitter). If you contact us on one of our Internet Marketing Channels, request customer service via social media or otherwise direct us to communicate with you via social media, we may contact you via direct message or use other social media tools to interact with you. In these instances, your interactions with us are governed by this Policy as well as the privacy policy of the social media platform you use. If you choose to access, link to, or log-in to our Sites or Internet Marketing Channels or otherwise communicate with us through a third-party social media service, you are granting us permission to access and use the information that you post or store on the applicable social media service in accordance with the privacy policy of that service and the privacy settings that are applicable to your account, and to store the user name and password you use to log-in to the applicable social media service. By accessing or logging into our Sites or Internet Marketing Channels via a social media service, any

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

DICK's Sporting Goods Turns Social Data Into Actionable Insights

For many retailers, collecting and analyzing the variety of data being generated across channels still is a constant struggle. Consumers' increasing use of social networks to share perspectives and sentiments makes data retrieval and management even more challenging for these retailers.

To better track, evaluate, and respond to social media feedback, DICK's Sporting Goods has partnered with newBrandAnalytics (nBA), a social intelligence solution provider.

(*E.g.*,   https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

13.   Defendant (via the Accused Instrumentality) performs the step of generating second data indicating an association between first words of the indicated words and indicating a degree of the association, the degree of the association corresponds to a ranking based on a recency of the content, wherein a first ranking of a first degree of association is greater than a second ranking of a second degree of association based on the multiple words related to the first degree of association

having a more recent content relationship than the multiple words related to the second degree of association. For example, DSG generates second data that indicates the association between words (*e.g.*, generating related relevant product content data based on words in social media content). DSG tracks user social media activity, analyzes unstructured data such as words, descriptive text/comments, and social media conversations with newBrandAnalytics (nBA), which is a social media listening tool, and implements second data (*e.g.*, generates related product content data by analyzing keywords used in social contents and researching related keywords associated with it). DSG uses a social media listening tool, *e.g.*, newBrandAnalytics (nBA), for analyzing social media data. A degree of association is determined by how recently the content containing these words or phrases was created or updated, more recent content indicates a stronger association. The process assigns rankings to the associations, with higher rankings indicating stronger associations. Furthermore, associations with more recently updated content are ranked higher than those with less recent content. DSG analyzes customer interactions, product reviews, and social media mentions to understand the words or phrases most closely linked with the brand and its products. DSG periodically extracts key themes and trends by aggregating consumer insights from social platforms and utilizing language modeling techniques. Language modeling captures the semantic structure of a language by learning patterns and relationships between words. DSG utilizes search engine optimization techniques to extract relevant keywords and uses newBrandAnalytics to analyze social media content. This enables them to understand current trends, customer sentiments, purchasing patterns, and text related to their products, including feedback and customer interests. They then prioritize content accordingly.

> To better track, evaluate, and respond to social media feedback, DICK's Sporting Goods has partnered with newBrandAnalytics (nBA), a social intelligence solution provider.

(*E.g.*, https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

> NewBrand's customer experience software does more than just social listening, analytics and reputation management. It enables you to quickly identify, prioritize and implement changes that will have the greatest impact on your brand--at the local, regional and global level.
>
> The company serves clients across food and beverage, hospitality, retail, and government industries, including Five Guys, Hyatt, Dick's Sporting Goods, Kohl's, Subway and many more.

(*E.g.*, https://www.linkedin.com/company/newbrandanalytics/).

> Although many analytics solutions provide retailers with a view of purchasing patterns and browsing behaviors based on structured data, they don't necessarily address unstructured data, such as social interactions.
>
> In turn, more retailers are embracing text and social analytics solutions. These offerings are designed to capture unstructured customer feedback, and help retailers connect the dots between hard data, customer experiences and overall brand sentiment.
>
> Analysis of unstructured social and other text data can help businesses "identify process failures that impact the customer experience," noted Andrew Boyd, Managing Director of Content and Data Solutions at Harte-Hanks. "Customer sentiment doesn't stay private for very long in the age of the empowered, social customer, so being able to identify sentiment issues is now an imperative."
>
> For example, **DICK's Sporting Goods** recently implemented the platform from newBrandAnalytics (nBA), a social intelligence solution provider, to better track, evaluate, and respond to social media feedback. By integrating social insights into in-store and online CRM data, the sporting goods retailer can keep a constant pulse on customer sentiment and constantly monitor and improve the cross-channel shopping experience.

(*E.g.*, https://www.retailtouchpoints.com/topics/loyalty/retailers-improve-sales-and-marketing-results-by-tracking-customer-behavior).

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One way to analyze consumer behavior is through **market research**. This involves collecting and analyzing data on consumer demographics, purchasing habits, and attitudes towards sports and fitness. By understanding who their customers are and what drives their purchasing decisions, Dick's Sporting Goods can make informed decisions about product offerings, pricing, and promotional strategies.

(*E.g.*,   https://keeganedwards.com/dicks-sporting-goods-marketing-strategy-a-winning-game-plan/).

Generate relevant content related to keyword associations and search engine algorithms. Keyword research involves identifying relevant words and phrases.

Through extensive keyword research and optimization of website content, Dick's Sporting Goods aims to rank high in search engine results for relevant keywords. This strategy increases the chances of attracting organic traffic from users actively searching for sporting goods and related products.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

Analyze customer preferences and other data, understand descriptive text on social platforms, to generate related data or product offerings.

"Because our members are from the most digitally-savvy generation, they aren't shy about reaching out on Facebook or Twitter to let us know what they think, which we love," Song said. "It not only gives us an opportunity to fix problems in real time, but it's also an important feedback loop for our web and product teams. Our users give us great data on what they think about the clothes, the web site, our apps, and because we're so agile, we incorporate a lot of what they say into the next release of our products."

(*E.g.*,   https://www.retailtouchpoints.com/topics/loyalty/retailers-improve-sales-and-marketing-results-by-tracking-customer-behavior).

A better understanding of trends

With these data insights, Dick's has been able to see what is popular with their customers.

(*E.g.*, https://fusion2011.org/dicks-sporting-goods-winning-strategy-the-secret-to-effective-customer-engagement/).

Analyzing trends to better understand our customers

(*E.g.*, https://dicks.us.com/privacy-policy/).

Dick's Sporting Goods recognizes the importance of understanding market trends and customer preferences, making these elements the foundation of its marketing strategy. By investing in in-depth market research, the company identifies the best opportunities for growth and adjusts its product offerings accordingly.

(*E.g.*, https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

Through market research, Dick's Sporting Goods gains valuable insights into consumer behavior, allowing them to anticipate and respond to changing trends. They analyze data on customer demographics, purchasing patterns, and preferences to inform their decision-making process. This comprehensive understanding of the market enables them to stay ahead of the competition and tailor their strategies to meet the evolving needs of their target audience.

(*E.g.*, https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

By accumulating consumer insights across Facebook, Twitter, and other networks, DICK's can track and pinpoint key themes and trends via language modeling capabilities. For instance, the retailer can determine if several consumers are complaining about poor in-store customer service then react by responding to comments and addressing the issues in those locations.

The key benefit, Eckel confirmed, is "the ability to extract meaning from social language, gather insight and apply it at the store level. Now, the social feedback we gather is very actionable and digestible for our entire organization."

(*E.g.*,   https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

For many retailers, collecting and analyzing the variety of data being generated across channels still is a constant struggle. Consumers' increasing use of social networks to share perspectives and sentiments makes data retrieval and management even more challenging for these retailers.

To better track, evaluate, and respond to social media feedback, DICK's Sporting Goods has partnered with newBrandAnalytics (nBA), a social intelligence solution provider.

Since implementing nBA in early May 2013, DICK's has been able to keep a constant pulse on social feedback and sentiment. Not only does this detailed intelligence help Eckel capture a complete picture of trends across communication and commerce touch points, it also helps him manage the brand more efficiently.

(*E.g.*,   https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

To effectively utilize social media platforms, companies should also **monitor and analyze their performance**. By tracking metrics such as engagement rate, reach, and click-through rate, businesses can gain insights into what content resonates with their audience and make data-driven decisions to optimize their social media strategy.

(*E.g.*,   https://keeganedwards.com/dicks-sporting-goods-marketing-strategy-a-winning-game-plan/).

User Activity Information we collect through these Information Technologies includes internet protocol (IP)
addresses, device characteristics (such as connection type, operating system, browser type, screen
resolution), location information, user ID, and your interactions with our Sites and Internet Marketing
Channels, such as which webpages you visit, your keyword searches, and the products or product
categories viewed. User activity information may also include information about: your mobile device if it is
being used to visit the Sites (such as device model, operating system, unique device identifiers, and mobile
network information); how you use our Sites and Internet Marketing Channels, search terms, pages you
visit on our Sites and application performance information. In addition, while User Activity Information does
not generally identify or relate to you as an individual, we may associate this type of information with you as
an individual and may also determine your general location from this information. We only share Personal

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

Prioritize content or product
offerings-based user's social
networking activities over time to
rank preferences based recent
consumer behaviors.

The browser on your device may offer you preferences regarding a website's collection of your personal
information or your online activities over time and/or across different websites or online services. At
this time, our Websites do not respond to these preferences, and our Websites may continue to collect
information in the manner described in this Policy.

(*E.g.*,   https://s7d2.scene7.com/is/content/dkscdn/FrontEndDev/DSG/CMS%20Pages/DSG/DSG

_0217_Suppliers/PrivacyPolicy-DicksProCo_072916.pdf).

The Solution

DICK'S Sporting Goods partnered with SOCi to develop a strategic, targeted SEO strategy utilizing the SOCi Local Pages product to optimize its stores' local pages, with the ability to manage each page through a single login and streamline cross-team collaboration. Simultaneously, the retailer uses the SOCi Listings tool to ensure each Google Business Profile listing includes a direct link to a particular store's local page, which accurately mirrors the listing's store hours, address, curbside pickup hours, and more.

SOCi is an extension of the retailer's marketing team and, together with DICK'S Sporting Goods, collaborates with the brand to optimize all things local. Through localized title tags, keyword inclusion, banner testing, and internal linking models, the teams successfully optimized each of the store pages and explored local campaigns around back-to-school and holiday shopping times to drive athletes to stores. In addition, SOCi helped the DICK'S Sporting Goods team bring brand stories to life on local store pages and maximize page templates to showcase the retailer's initiatives like House of Sport, highlighting various in-store experiences athletes can enjoy, including rock climbing walls, tracks, hockey rinks, and more.

Dick's Sporting Goods partnered with SOCi for targeted advertising. It helps generate relevant content data based on keywords from social media content. This includes integrating related keywords into their strategies and optimizing content data on their site.
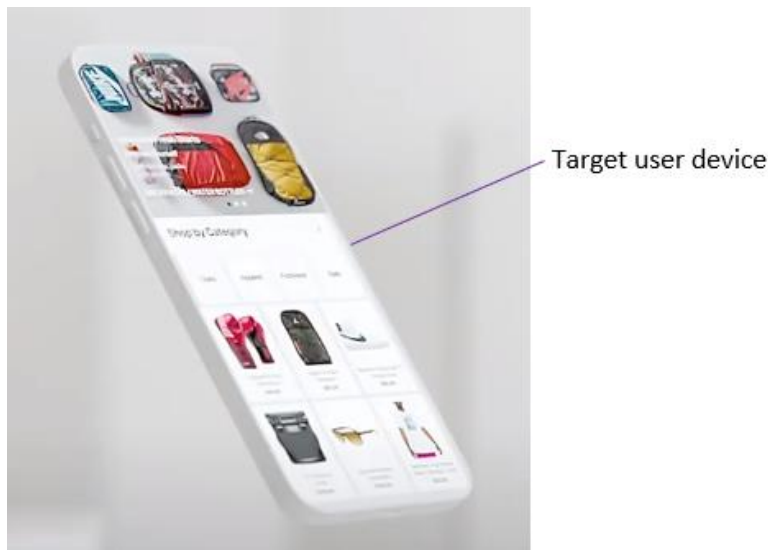
(*E.g.*, https://www.meetsoci.com/resources/insights/brands-franchises/dicks-sporting-goods-dominates-local-seo-through-localized-store-pages/).

14.   As shown below, Defendant (via the Accused Instrumentality) performs the step of identifying, at a computing system, a word in browse information of a target user device, a second word determined based on the second data to be related to the word, and a content item having an associated keyword that corresponds to the second word. For example, when a user browses the DSG website, cookies and tracking pixels collect data on the user's browsing activity, including visited webpages, products viewed, and even search terms. DSG uses a keyword association algorithm that analyzes the social network channels browsing words (*i.e.*, the "first word") and identifies other relevant keywords (*e.g.*, the second word determined based on the second data to be related to the word). The algorithm then matches the identified related keyword with the keywords associated with other content items, and based on matching, it displays personalized

recommendations and targeted advertising.DSG identifies a search terms or browsing pattern information of a target user's device. A second word (*e.g.*, related relevant words) determined based on second data (*e.g.*, product content data by analyzing keywords used in social contents and researching related keywords associated with it). DSG looks for a content item that is associated with a keyword corresponding to this second word. It identifies within a computing system (*e.g.*, a data analysis system with language modeling and brand analytics capabilities) browsing text patterns and trending brands in browsing history.

> Additionally, we work with advertising networks that utilize the browsing history of your visits to our Websites, Internet Marketing Channels and across other sites to serve you DICK'S advertisements across the Internet and other channels. We do not permit such networks to provide your browsing history on any of our Websites to any other site. Some of these networks may participate in the Digital Advertising Alliance's ("DAA") Self-Regulatory Program. To learn more about your choices relating to networks that participate in the DAA Program, please click here.

(*E.g.*, https://www.sportsmatter.org/s/privacy-policy).

(*E.g.*, https://youtu.be/LX91w1LfjRQ).

> We also work with third-party service providers that provide us feedback about our Sites and analytics and general information about browsing patterns to improve our Sites and our Internet Marketing Channels.

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

User Activity Information we collect through these Information Technologies includes internet protocol (IP) addresses, device characteristics (such as connection type, operating system, browser type, screen resolution), location information, user ID, and your interactions with our Sites and Internet Marketing Channels, such as which webpages you visit, your keyword searches, and the products or product categories viewed. User activity information may also include information about: your mobile device if it is being used to visit the Sites (such as device model, operating system, unique device identifiers, and mobile network information); how you use our Sites and Internet Marketing Channels, search terms, pages you visit on our Sites and application performance information. In addition, while User Activity Information does not generally identify or relate to you as an individual, we may associate this type of information with you as an individual and may also determine your general location from this information. We only share Personal

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

For instance, when a customer visits their website, they are greeted with a user-friendly interface that allows them to easily navigate through various product categories. The website is designed to provide a personalized shopping experience, with recommendations based on the customer's browsing history and preferences. This attention to detail ensures that customers feel valued and understood.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-

marketing-strategy).

We also work with third-party service providers that provide us feedback about our Sites and analytics and general information about browsing patterns to improve our Sites and our Internet Marketing Channels. Analytics services such as Adobe Analytics provide services that analyze information regarding your visits to our Sites and may use cookies, web beacons and other tracking mechanisms (as described below) to collect this information.

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

Through extensive keyword research and optimization of website content, Dick's Sporting Goods aims to rank high in search engine results for relevant keywords. This strategy increases the chances of attracting organic traffic from users actively searching for sporting goods and related products.

Through market research, Dick's Sporting Goods gains valuable insights into consumer behavior, allowing them to anticipate and respond to changing trends. They analyze data on customer demographics, purchasing patterns, and preferences to inform their decision-making process. This comprehensive understanding of the market enables them to stay ahead of the competition and tailor their strategies to meet the evolving needs of their target audience.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-

marketing-strategy).

Analyzing Consumer Behavior

Analyze consumer behavior to better understand the target audience

(*E.g.*,   https://keeganedwards.com/dicks-sporting-goods-marketing-strategy-a-winning-game-plan/).

Capture consumer insights (i.e., historical search terms) and pinpoint ideas. Analyze additional matching terms (i.e., second word) via language modeling capabilities

By accumulating consumer insights across Facebook, Twitter, and other networks, DICK's can track and pinpoint key themes and trends via language modeling capabilities. For instance, the retailer can determine if several consumers are complaining about poor in-store customer service then react by responding to comments and addressing the issues in those locations.

(*E.g.*,   https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

For many retailers, collecting and analyzing the variety of data being generated across channels still is a constant struggle. Consumers' increasing use of social networks to share perspectives and sentiments makes data retrieval and management even more challenging for these retailers.

To better track, evaluate, and respond to social media feedback, DICK's Sporting Goods has partnered with newBrandAnalytics (nBA), a social intelligence solution provider.

(*E.g.*,   https://www.retailtouchpoints.com/topics/omnichannel-alignment/dick-s-sporting-goods-turns-social-data-into-actionable-insights).

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Based upon your visit(s) to our Websites and elsewhere on the Internet and your interaction with our Internet Marketing Channels, we may personalize your experience via our Websites and via our Internet Marketing Channels. However, you have choices relating to how your device interacts with our Websites and our Internet Marketing Channels. You may choose to access our Websites and our Internet Marketing Channels without accepting certain Information Technologies on your device(s), and you may opt-out or modify certain elements that are tailored specifically to you and served to you based upon your browsing history. If you choose to restrict Information Technologies, you may access our Websites

How We Use Your Information

Conducting research and analysis.

(*E.g.*,   https://s7d2.scene7.com/is/content/dkscdn/FrontEndDev/DSG/CMS%20Pages/DSG/DSG _0217_Suppliers/PrivacyPolicy-DicksProCo_072916.pdf).

Through extensive keyword research and optimization of website content, Dick's Sporting Goods aims to rank high in search engine results for relevant keywords. This strategy increases the chances of attracting organic traffic from users actively searching for sporting goods and related products.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

The Role of Market Research

Adjust content items based on in-depth research of user activity on the internal social marketing site.

Dick's Sporting Goods recognizes the importance of understanding market trends and customer preferences, making these elements the foundation of its marketing strategy. By investing in in-depth market research, the company identifies the best opportunities for growth and adjusts its product offerings accordingly.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

15.   Defendant via the Accused Instrumentality performs the step of providing a portion of the content item retrieved from a data repository to the target user device. For example, DSG collects and uses customer data to tailor content recommendations based on preferences and behavior. DSG stores user browsing patterns, beauty preferences, demographics, user behavioral

data, and social networking activity details. This allows DSG to personalize content delivery across user devices, tailoring recommendations and promotions based on user's preferences and behaviors, thus enhancing the overall customer experience.

Targeted advertising is another tool Dick's uses. They identify different groups of customers to send specific ads to. **This means ads are more likely to hit the mark**, making their budget more efficient.

At its core, Dick's Sporting Goods focuses on what customers want. They use personalized campaigns and targeted ads to increase happiness with shopping. This approach not only boosts their sales but also strengthens the connections they have with their customers.

(*E.g.*, https://thebigmarketing.com/dicks-sporting-goods-marketing-strategy/).

Provide product recommendations based on stored browsing patterns and preferences.

For instance, when a customer visits their website, they are greeted with a user-friendly interface that allows them to easily navigate through various product categories. The website is designed to provide a personalized shopping experience, with recommendations based on the customer's browsing history and preferences. This attention to detail ensures that customers feel valued and understood.

(*E.g.*,   https://www.brandcredential.com/post/uncovering-dick-s-sporting-goods-winning-marketing-strategy).

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(*E.g.*,   https://www.retailtouchpoints.com/features/retail-success-stories/dick-s-sporting-goods-improves-customer-engagement-satisfaction-with-new-mobile-app).

(*E.g.*,   https://keeganedwards.com/dicks-sporting-goods-marketing-strategy-a-winning-game-plan/).

Store user social network activity, browsing history, user demographics, user lifestyle information, product buying preferences, and personal interests.

Information We Collect

We collect information you voluntarily provide to us when you: (1) open an account or apply to the program; (2) donate; (3) utilize our services; (4) claim a reward or make a purchase; (5) contact us via customer service; (6) submit any user-generated content (via our Websites, Internet Marketing Channels or otherwise); (7) participate in customer research, surveys, sweepstakes or promotions; or (8) otherwise communicate information to us.

Some of the information is considered "Personal Information." Personal Information includes your name, mailing address, e-mail address, driver's license number, social security number, credit/debit card information (and related payment information) and/or telephone number. We may also collect other information such demographic/lifestyle information (including date of birth, personal interests and product/buying preferences).

(*E.g.,* https://keeganedwards.com/dicks-sporting-goods-marketing-strategy-a-winning-game-plan/).

Dick's Sporting Goods stores user activity information, including browsing patterns such as frequently visited pages, viewed products, watched product categories, used search terms, and user location.

User Activity Information we collect through these Information Technologies includes internet protocol (IP) addresses, device characteristics (such as connection type, operating system, browser type, screen resolution), location information, user ID, and your interactions with our Sites and Internet Marketing Channels, such as which webpages you visit, your keyword searches, and the products or product categories viewed. User activity information may also include information about: your mobile device if it is being used to visit the Sites (such as device model, operating system, unique device identifiers, and mobile network information); how you use our Sites and Internet Marketing Channels, search terms, pages you visit on our Sites and application performance information. In addition, while User Activity Information does not generally identify or relate to you as an individual, we may associate this type of information with you as an individual and may also determine your general location from this information. We only share Personal Information for purposes identified in this Privacy Policy, but User Activity Information collected on our Sites could potentially be used by Internet Marketing Channels for their own purposes, some of whom may be able to associate such information with you based on other information they have collected independently of DICK'S.

(*E.g.*, https://www.dickssportinggoods.com/s/policy/privacy-policy).

16.   **Induced Infringement.** Defendant has also actively induced, and continues to induce, the infringement of at least claim 28 of the '138 Patent by actively inducing its customers to use Defendant's accused product in an infringing manner as described above.   At least as of the filing of this lawsuit and service of the complaint, Defendant has had knowledge of the '138 Patent and knowledge that the accused instrumentality infringed at least one claim of the '138 Patent. Upon information and belief, Defendant has specifically intended that its customers use the

accused instrumentality in a manner that infringes at least claim 28 of the '138 Patent by, at a

minimum, providing access to support for and instructions for the accused instrumentality to its

customers to enable them to infringe at least claim 28 of the '138 Patent, as described above. Even

where performance of the steps required to infringe at least claim 28 of the '138 Patent is

accomplished by Defendant and Defendant's customer jointly, Defendant's actions have solely

caused each of the steps to be performed.

17.   Plaintiff has been damaged as a result of Defendant's infringing conduct.

Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates

Plaintiff for such infringement of the '138 Patent, *i.e.*, in an amount that by law cannot be less than

would constitute a reasonable royalty for the use of the patented technology, together with interest

and costs as fixed by this Court under 35 U.S.C. § 284.

18.   The claims of the '138 Patent are method claims to which the marking requirements

are not applicable. Plaintiff has therefore complied with the marking statute.

V. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of

any issues so triable by right.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against

Defendant, and that the Court grant Plaintiff the following relief:

a.   Judgment that one or more claims of United States Patent No. 11,049,138 have
     been infringed directly and indirectly, either literally and/or under the doctrine of
     equivalents, by Defendant;

b.   Judgment that Defendant account for and pay to Plaintiff all damages to and costs
     incurred by Plaintiff because of Defendant's infringing activities and other conduct
     complained of herein, and an accounting of all infringements and damages not
     presented at trial;

    c.   That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and

    d.   That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

June 21, 2024

DIRECTION IP LAW

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